

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Philippe Moser et al. Examiner: Randall Winston
App. No.: 10/593,850 Conf. No.: 4436 Group Art Unit: 1655
Filed: September 22, 2006 Docket No.: C 2939 PCT/US
(P40105 USA)

For: COSMETIC AND PHARMACEUTICAL USES OF AN EXTRACT OF A PLANT
BELONGING TO THE GENUS BUCHHOLZIA

DECLARATION OF MARIE-FRANCE ZAMBAUX UNDER 37 C.F.R. 1.132

I, Marie-France Zambaux, declare and say that:

1. I am currently employed by Cognis GmbH as a R&D Operations Manager. I have held this position for about 4 years. I hold a B.S. degree (1994) in Biochemistry from University of Nancy I, Raymond Poincaré, France and a Ph.D. degree (1998) in Biological and Medical Engineering from University of Nancy I, Raymond Poincaré, France. I have experience with cosmetic or dermopharmaceutical compositions comprising extracts of *Buchholzia coriacea*.

2. I am aware of U.S. Patent Application Serial No. 10/593,850 ("the '850 application") and have reviewed the claims currently pending therein. I understand that the claims of this application have been rejected as allegedly being obvious over Ajaiyeoba et al.¹ in view of U.S. Patent No. 4,343,798 ("Fawzi"). I have reviewed these publications and the compositions and methods disclosed therein.

3. The Examiner has stated that it would be obvious to one of ordinary skill in the art to make a composition comprising an extract of *Buchholzia coriacea* and at least one auxiliary and/or additive, or to use a method to administer the same to a patient in

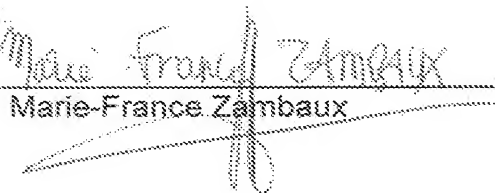
¹ "Antimicrobial and cytotoxicity evaluation of *Buchholzia coriacea* stem bark", Fitoterapia 74 (2003) 706-709.

need thereof, in view of the extract composition disclosed by Ajaiyeoba et al. and additional active ingredients taught by Fawzi. Ajaiyeoba et al. relates to the antimicrobial and cytotoxicity evaluation of extracts *Buchholzia coriacea* stem bark. Fawzi relates to topical antimicrobial and anti-inflammatory compositions containing C₅-C₁₂ fatty acids with a corticosteroid component.

4. As one skilled in the art, I can attest to the fact that a person skilled in the art would not expect that extracts from the bark would have the same active components as extracts from the leave or seed of a plant. For example, preliminary tests have shown that extracts from the leaves of *Buchholzia coriacea* contains tannins, proanthocyan and glycosinolates as mentioned in WO 2005/089705 A1 page 3, and tannins are well known to have anti-oxidant effect. Similarly, for extracts from the seeds of *Buchholzia coriacea*, their chemical composition is not known but in WO 2005/089705 A1 we have demonstrated *in vitro* on human skin cells, anti-aging activities, anti-inflammatory activities and on B16 melanocytes, an inhibition of melanin synthesis that means at the skin level, a lightening/whitening effect.

Thus, the state of the art was such that a person skilled in the art would not be able to reliably predict the presence of an active component of an extract taken from the leave or seed of *Buchholzia coriacea* based on the extract taken from the bark of that plant.

5. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Marie-France Zambaux


Date